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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/079,611	02/19/2002	Shigeki Tanaka	12052.47US01	7278
23552	7590 10/22/2002			
MERCHANT & GOULD PC			EXAMINER	
P.O. BOX 29 MINNEAPO	03 LIS, MN 55402-0903		HOOK, JAMES F	
			ART UNIT	PAPER NUMBER
			3752	
		DATE MAIL ED: 10/22/2002		

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Please find below and/or attached an Office communication concerning this application or proceeding.

V	1

Application No.

10/079,611

Applicant(s)

Shigeki et al.

Office Action Summary

Examiner

James F. Hook

Art Unit 3752



	The MAILING DATE of this communication appears o	n the cove	r sheet wit	th the correspondence address		
Period fo	• •					
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET THE MAILING DATE OF THIS COMMUNICATION.						
- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the						
- If the per - If NO per - Failure to - Any reph	late of this communication. riod for reply specified above is less than thirty (30) days, a reply within the riod for reply is specified above, the maximum statutory period will apply ar b reply within the set or extended period for reply will, by statute, cause the y received by the Office later than three months after the mailing date of the latent term adjustment. See 37 CFR 1.704(b).	d will expire SI application to	X (6) MONTH become ABAN	S from the mailing date of this communication. NDONED (35 U.S.C. § 133).		
Status						
1) 🗌 🛭 F	Responsive to communication(s) filed on			<u> </u>		
2a) 🗌 📑	This action is FINAL . 2b) 💢 This action is non-final.					
3) 🗆 🤅	3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11; 453 O.G. 213.					
Dispositi	on of Claims					
4) 💢 (Claim(s) <u>1-7</u>		-11-	is/are pending in the application.		
4a	a) Of the above, claim(s)			is/are withdrawn from consideration.		
5) 🗆 (Claim(s)	<u></u>		is/are allowed.		
6) 💢 (Claim(s) <u>1-7</u>			is/are rejected.		
7) 🗌 (Claim(s)			is/are objected to.		
8) 🗌 (Claims		are subje	ect to restriction and/or election requirement.		
Applicati	ion Papers					
9) 🗆 -	The specification is objected to by the Examiner.					
10) 🗆	The drawing(s) filed on is/are	a) 🗆 acce	epted or	b) \square objected to by the Examiner.		
	Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).					
11)						
	If approved, corrected drawings are required in reply to this Office action.					
12) 🗆	12) The oath or declaration is objected to by the Examiner.					
Priority (under 35 U.S.C. §§ 119 and 120					
13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).						
a) 💢	All b)□ Some* c)□ None of:					
1	1. X Certified copies of the priority documents have been received.					
2	2. Certified copies of the priority documents have been received in Application No.					
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).						
	*See the attached detailed Office action for a list of the certified copies not received.					
14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).						
a) The translation of the foreign language provisional application has been received.						
15) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.						
Attachme	ent(s) ice of References Cited (PTO-892)	4) Intervie	w Summarv (PTO-413) Paper No(s)		
A			5) Notice of Informal Patent Application (PTO-152)			
3) X Information Disclosure Statement(s) (PTO-1449) Paper No(s)2						

Page 2

Application/Control Number: 10/079,611

Art Unit: 3752

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers

have been placed of record in the file.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use

or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3 and 5-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Barton.

The patent to Barton discloses the recited pipe member having metal pipes 10 and 12 of different

diameters, one metal pipe of a larger diameter engages the other metal pipe of smaller diameter

and forced together which is the equivalent of a press fit, and where the pipes can be expanded to

form the joints. The use of the article for a drivers seat is considered merely intended use. It has

been held that a recitation with respect to the manner in which a claimed apparatus is intended to

be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the

claimed structural limitations. Ex parte Masham, 2 USPQ2d 1647 (1987).

Application/Control Number: 10/079,611 Page 3

Art Unit: 3752

4. Claims 1-3 and 5-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Ward. The patent to Ward discloses the recited pipe member having metal pipes 1 and 4 of different diameters, one metal pipe of a larger diameter engages the other metal pipe of smaller diameter and forced together which is the equivalent of a press fit, and where the pipes can be expanded to form the joints. The use of the article for a drivers seat is considered merely intended use. It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

Claim Rejections - 35 USC § 103

- 5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ward or Barton in view of Lago. The patents to Ward and Barton disclose all of the recited structure with the exception of using two different metals such as steel and aluminum to form the pipes. The patent to Lago discloses the recited pipe member having metal pipes 11 and 16 of different diameters, one metal pipe of a larger diameter engages the other metal pipe of smaller diameter and forced

Application/Control Number: 10/079,611 Page 4

Art Unit: 3752

together which is the equivalent of a press fit, where one metal pipe can be formed of steel and the other can be made of aluminum. It would have been obvious to one skilled in the art to modify the pipes in either Ward or Barton by forming one of the pipes of steel and the other of aluminum as such would reduce the cost of the pipe connection by allowing for the use of cheaper materials as suggested by Lago.

Conclusion

- 7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Dittich, Clair, Jr., Jeffers, Lumsden, Hata (404, 264), Usui, Yamanashi, and Crandall disclosing state of the art pipes and connections.
- 8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Hook whose telephone number is (703) 308-2913.

J. Hook October 21, 2002 James F. Hook
Primary Examiner